
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1521 Session of
2011

INTRODUCED BY HARPER, CREIGHTON, DeLUCA, GEIST, HENNESSEY, HESS,
HORNAMAN, MURT, PASHINSKI, PEIFER, VEREB AND WATSON,
MAY 10, 2011

REFERRED TO COMMITTEE ON JUDICIARY, MAY 10, 2011

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for the offense and consequences of
4 possession of a vehicle with false compartments.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 907.1. Possession of a vehicle with false compartments.

10 (a) Offense defined.--Notwithstanding any other provision of
11 law:

12 (1) Any person who, acting with an unlawful purpose,
13 knowingly owns, operates or possesses a motor vehicle which
14 contains a false or secret compartment with the intent to
15 store, conceal, camouflage, hide, smuggle, transport or
16 prevent discovery of a person, controlled substance, firearm,
17 weapon or other contraband within the false compartment
18 commits a misdemeanor of the first degree.

1 (2) Any person who, acting with an unlawful purpose,
2 knowingly designs, assembles, constructs, builds, alters,
3 fabricates, attaches, fortifies, installs, places, causes to
4 be placed or maintains a false compartment in a motor vehicle
5 with the intent to store, conceal, camouflage, hide, smuggle,
6 transport or prevent discovery of a person, controlled
7 substance, firearm, weapon or other contraband within the
8 false compartment commits a misdemeanor of the second degree.

9 (b) Defense prohibited.--It shall not be a defense under
10 this section that the false or secret compartment was inoperable
11 or was not actually triggered, or that its existence or location
12 was known to a law enforcement officer or another person.

13 (c) Intent.--For the purpose of this section, a person's
14 intention to use a false or secret compartment to conceal the
15 contents of the compartment from a law enforcement officer shall
16 be inferred from factors including the discovery of a person,
17 controlled substance, firearm, weapon or other contraband within
18 the false or secret compartment, or from the discovery of
19 evidence of the previous placement of a person, controlled
20 substance, firearm, weapon or other contraband within the false
21 or secret compartment.

22 (d) Penalty.--In addition to any other applicable penalty,
23 any person convicted of a violation of this section shall be
24 subject to a license suspension of one year for a first offense
25 and two years for a second or subsequent offense.

26 (e) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection unless the context clearly indicates otherwise:

29 "False or secret compartment." Any box, container, space or
30 enclosure that is intended or designed to store, conceal,

1 camouflage, hide, smuggle, transport or prevent discovery of a
2 person, controlled substance, firearm, weapon or contraband
3 within or attached to the motor vehicle, such as any of the
4 following:

5 (1) False, altered or modified fuel tanks.

6 (2) Original factory equipment modified, altered or
7 changed.

8 (3) Compartment, space or box that is added to or
9 fabricated, made or created using existing compartments,
10 spaces or boxes within the vehicle.

11 "License." Any driver's license issued in accordance with 75
12 Pa.C.S. (relating to vehicles), including a commercial driver's
13 license as defined under 75 Pa.C.S. § 1603 (relating to
14 definitions).

15 Section 2. Title 42 is amended by adding a section to read:
16 § 6801.2. Possession of a vehicle with false compartments.

17 (a) Forfeiture.--

18 (1) Except as set forth in paragraph (2), a vehicle used
19 in the commission of an offense under 18 Pa.C.S. § 907.1
20 (relating to possession of a vehicle with false compartments)
21 shall be subject to forfeiture to the Commonwealth; and no
22 property right shall exist in the vehicle.

23 (2) The following apply:

24 (i) A vehicle used by a common carrier in the
25 transaction of business as a common carrier shall not be
26 forfeited unless the Commonwealth establishes that the
27 owner or other person in charge of the conveyance was a
28 consenting party or privy to the offense.

29 (ii) A vehicle shall not be forfeited if the owner
30 of the vehicle establishes that the offense was committed

1 without the owner's knowledge or consent.

2 (b) Process and seizures.--A vehicle subject to forfeiture
3 under this section may be seized by the law enforcement
4 authority upon process issued by a court of common pleas having
5 jurisdiction over the vehicle. Seizure without process may be
6 made if any of the following apply:

7 (1) The seizure is incident to an arrest, a search under
8 a search warrant or an inspection under an administrative
9 inspection warrant.

10 (2) The vehicle has been the subject of a prior judgment
11 in favor of the Commonwealth in a criminal injunction or
12 forfeiture proceeding under this chapter.

13 (3) There is probable cause to believe that the vehicle
14 has been or is intended to be used in the commission of an
15 offense under 18 Pa.C.S. § 907.1.

16 (c) Seizure without process.--If seizure is made without
17 process, proceedings for the issuance of process shall be
18 instituted immediately.

19 (d) Custody.--A vehicle taken or detained under this section
20 shall not be subject to replevin but is deemed to be in the
21 custody of the law enforcement authority, subject only to the
22 orders and decrees of the court of common pleas having
23 jurisdiction over the forfeiture proceedings and of the district
24 attorney or the Attorney General. When a vehicle is seized under
25 this section, the law enforcement authority shall place the
26 vehicle under seal and either:

27 (1) remove it to a place determined by the law
28 enforcement authority; or

29 (2) request that the district attorney or Attorney
30 General take custody of it and remove it to an appropriate

1 location for disposition in accordance with law.

2 (e) Use of vehicle held in custody.--When a vehicle is
3 forfeited under this section, it shall be transferred to the
4 custody of the district attorney if the law enforcement
5 authority seizing the vehicle has local or county jurisdiction
6 or of the Attorney General if the law enforcement authority
7 seizing the vehicle has Statewide jurisdiction. The district
8 attorney or the Attorney General, where appropriate, may:

9 (1) Retain the vehicle for official use.

10 (2) Sell the vehicle. The proceeds from the sale shall
11 be used to pay all proper expenses of the proceedings for
12 forfeiture and sale, including expenses of seizure,
13 maintenance of custody, advertising and court costs. The
14 balance of the proceeds shall be dealt with under subsections
15 (f) and (g).

16 (f) Use of proceeds.--Proceeds under subsection (e)(2) shall
17 be placed in the operating fund of the county in which the
18 district attorney is elected. The appropriate county authority
19 shall immediately release from the operating fund, without
20 restriction, that amount for the use of the district attorney in
21 enforcing the criminal laws of the Commonwealth of Pennsylvania.
22 The entity having budgetary control shall not anticipate future
23 forfeitures or proceeds from forfeiture in adoption and approval
24 of the budget for the district attorney.

25 (g) Distribution among law enforcement authorities.--If both
26 municipal and State law enforcement authorities were
27 substantially involved in effecting the seizure, the court
28 having jurisdiction over the forfeiture proceedings shall order
29 a sale of the vehicle and equitable distribution of proceeds
30 between the district attorney and the Attorney General.

1 (h) Annual audit.--Every county shall provide, through the
2 controller, board of auditors or other appropriate auditor and
3 the district attorney, an annual audit of all forfeited vehicles
4 and proceeds obtained under this section. The audit shall not be
5 made public but shall be submitted to the Office of Attorney
6 General. The county shall report all forfeited vehicles and
7 proceeds obtained under this section and the disposition of them
8 to the Attorney General by September 30 of each year.

9 (i) Annual report; confidential information regarding
10 vehicles.--The Attorney General shall annually submit a report
11 to the Appropriations Committee and Judiciary Committee of the
12 Senate and the Appropriations Committee and Judiciary Committee
13 of the House of Representatives specifying the forfeited
14 vehicles or proceeds obtained under this section. The report
15 shall give an accounting of all proceeds derived from the sale
16 of forfeited vehicles and the use made of unsold forfeited
17 vehicles. The Attorney General shall adopt procedures and
18 guidelines governing the release of information by the district
19 attorney to protect the confidentiality of forfeited vehicles or
20 proceeds used in ongoing law enforcement activities.

21 (j) Proceeds and appropriations.--The proceeds or future
22 proceeds from vehicles forfeited under this section shall be in
23 addition to any appropriation made to the Office of Attorney
24 General.

25 Section 3. This act shall take effect in 60 days.